

July 2, 2002

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

**RECOMMENDED POSITIONS ON STATE LEGISLATION ( 3-VOTES)**

This letter contains recommendations on legislation relating to terrorism (AB 1838, Hertzberg and SB 1287, Alarcon); Proposition 36 drug treatment and public assistance programs (AB 1947, Washington); residential rental housing inspection (AB 2545, Nation); domestic violence shelters (SB 1618, Kuehl); medical laboratory testing (SB 1809, Machado); and election schedules (SB 1975, Johnson).

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Approve the recommended positions contained in this letter on the following legislative proposals:
  - **AB 1838 (Hertzberg)** which increases penalties for acts of terrorism and expands the definition of weapons of mass destruction – **SUPPORT**
  - **AB 1947 (Washington)** which permits those convicted of a felony and enrolled in a Proposition 36 drug treatment program to be eligible for aid under the California Work Opportunity and Responsibility to Kids (CalWORKs) program, and for food stamps – **SUPPORT AND AMEND**

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- **AB 2545 (Nation)** which requires written notice to be provided ten days prior to a pending inspection of residential rental property – **OPPOSE**
  - **SB 1287 (Alarcon)** which increases penalties for acts of terrorism and expands the definition of weapons of mass destruction – **SUPPORT**
  - **SB 1618 (Kuehl)** which increases the portion of the marriage license fee for domestic violence shelters from \$23 to \$33 and requires \$6 of that amount to be allocated to develop and expand shelters for underserved areas and populations – **SUPPORT**
  - **SB 1809 (Machado)** which creates a new license category for medical laboratory technicians (MLTs) and authorizes MLTs to perform and report the results of clinical laboratory tests or examinations classified as waived or of moderate complexity, while under the supervision of a physician and surgeon or other appropriately licensed staff – **SUPPORT**
  - **SB 1975 (Johnson)** which, beginning in 2004, mandates that there be three statewide elections during Presidential election years (March, June and November), and two elections in Gubernatorial years (June and November) – **OPPOSE**
2. Instruct the County's legislative advocates in Sacramento, working with the Legislative Strategist, affected departments, and other interested individuals and organizations to advocate these positions on behalf of Los Angeles County.

Departmental representatives will be present at the Board hearing to address any technical issues related to the bills.

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Affected departments have recommended the following positions on legislation to your Board for approval.

**AB 1838 (Hertzberg)**

As amended on March 7, 2002, AB 1838 would increase penalties for acts of terrorism and expand the definition of weapons of mass destruction.

AB 1838 would make murder by a weapon of mass destruction, first degree murder punishable by imprisonment for 25 years to life. If special circumstances exist, then the punishment would be either life without the possibility of parole, or death. AB 1838 adds offenses involving a weapon of mass destruction to the list of serious and violent felonies. Defendants found guilty of a serious or violent felony may be subject to enhanced punishment including limiting sentence reductions to 15 percent for work performance instead of the standard 50 percent allowed for State prison and 33 percent allowed for county jail. For repeat offenders, the penalty may be increased incarceration for up to three more years.

When the current law addressing acts of terrorism was enacted almost three years ago (AB 140, Hertzberg; Chapter 563 of 1999) airplanes and non-weaponized biological agents were not included in the legislation. The definition of a weapon of mass destruction is expanded by AB 1838 to include restricted biological agents and an aircraft, vessel, or vehicle that is used as a destructive device.

**The Sheriff recommends that the County support AB 1838 because it defines weapons of mass destruction and will thereby facilitate the acquisition of search warrants and expedite investigations so law enforcement personnel may apprehend those who would use weapons of mass destruction, and we concur.**

AB 1838 is sponsored by the Los Angeles County District Attorney and co-sponsored by the Los Angeles County Sheriff. The measure is supported by the American Federation of State, County, and Municipal Employees. It is also supported by the Association for Los

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Angeles Deputy Sheriffs, California District Attorneys Association, Los Angeles Police Protective League, Peace Officers Research Association of California, and the Riverside Sheriffs' Association. AB 1838 is opposed by the American Civil Liberties Union and California Attorneys for Criminal Justice. On June 18, 2002, AB 1838 passed the Senate Public Safety Committee on a vote of 4 to 0 and now awaits a hearing date in the Senate Appropriations Committee.

#### **AB 1947 (Washington)**

As amended on April 11, 2002, AB 1947 would permit those convicted of a felony and enrolled in a Proposition 36 drug treatment program to be eligible for the California Work Opportunity and Responsibility to Kids (CalWORKs) program and for food stamps.

Under California law, an individual is not eligible for assistance under CalWORKs or food stamps programs if convicted of certain felonies related to controlled substances. According to the author's office, AB 1947 is intended to provide transitional assistance only for the duration of participation in a Proposition 36 drug treatment program, which is limited to eighteen months.

The Department of Health Services (DHS) indicates that those who are seeking treatment for drug addiction already face a myriad of problems that are exacerbated when they have no means of financial support. They are more vulnerable to homelessness, domestic violence, criminal activity, and health complications. DHS anticipates that costs due to the additional CalWORKs participants and increased drug/Medi-Cal costs resulting from implementation of AB 1947 would not be substantial. In fact, the bill may provide counties with the opportunity to access Medi-Cal or allowable CalWORKs supportive services funding for drug treatment services after initial enrollment and successful progress in a Proposition 36 program, enabling counties to maximize the use of Proposition 36 funding.

The District Attorney (DA) supports AB 1947 because it will encourage those with a history of drug abuse to participate in drug treatment and to redirect their lives in a more positive direction. Without this income, these individuals are much more likely to re-enter the

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criminal justice system. The Department of Public Social Services (DPSS) also supports AB 1947 and indicates that any additional County costs resulting from implementation of the bill will be negligible. The Public Defender supports AB 1947 and encourages expansion of the bill to allow continuing eligibility for public assistance programs after an individual successfully completes a Proposition 36 drug treatment program and their conviction is expunged by a court. The Probation Department also supports the bill because it is good public policy, and the Sheriff supports the bill in concept.

**Because eligibility for public assistance programs will help participants to successfully complete Proposition 36 drug treatment programs and achieve family self-sufficiency, DHS, DPSS, Probation and the Public Defender recommend that the County support AB 1947 and seek the following amendments, and we concur.**

**DHS further recommends that the County seek an amendment to specify that the eligibility for assistance apply to a participant in a Proposition 36 drug treatment program that requires drug testing as a treatment component, and we concur. The Public Defender further recommends that the County seek an amendment to allow continuing eligibility for public assistance programs after an individual successfully completes a Proposition 36 drug treatment program and their conviction is expunged by a court, and we concur.**

AB 1947 is sponsored by the author and supported by the California Association of Drug Court Professionals, California State Association of Counties, California Coalition for Youth, California National Association for Women, State Commission on the Status of Women, American Civil Liberties Union, County Alcohol and Drug Program Administrators Association of California, County Welfare Directors Association, Los Angeles County District Attorney, Santa Clara County Board of Supervisors, and the Western Center on Law and Poverty. It is opposed by the State Department of Finance. AB 1947 is awaiting a hearing date in the Senate Health and Human Services Committee.

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**AB 2545 (Nation)**

As amended on May 23, 2002, AB 2545 would require written notice to be provided ten days prior to a routine housing code inspection of residential rental property by either of the following methods: 1) written notice by first-class mail to the property occupants and owner, or the owner's agent; or 2) posting the notice in various conspicuous locations at the property where the notice is likely to be seen by the occupants, at any residential rental office located on the property, and by mailing a copy of the notice by first-class mail to the property owner of record according to current county assessor tax records.

The California Association of Environmental Health Administrators contends that public health and environmental health inspections are inherently more effective if conducted unannounced. In fact, a number of environmental health inspections are required by statute to be unannounced. The Department of Health Services (DHS) reports that the Environmental Health Division conducts routine inspections of residential rental properties for problems related to vermin infestation, plumbing, ventilation, heating, housing structure, water, sewage, toilet facilities and sanitation. DHS inspects 319,740 housing units each year. Currently, aging housing stock is inspected annually and housing units in the worst condition, so-called "slumlord" buildings, are inspected at least twice a year.

DHS estimates that mailing notices to owners and tenants would result in additional County costs of \$3 million, while posting of notices would cost approximately \$8.4 million. If these costs could not be met, the Department would have to decrease the frequency of routine inspections to once every three years.

While the author's office asserts that the intent of this legislation is to provide additional privacy protection, DHS indicates, and County Counsel agrees, that it is likely to provide unscrupulous building owners with advance notice of inspection and the opportunity to intimidate tenants, which would undermine the Department's ability to protect public health and safety. County Counsel further indicates that, pursuant to both statute and California case law, code enforcement agencies are allowed to conduct routine housing inspections unless denied permission by the tenant or owner. Tenants and owners are protected from

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unlawful searches by the United States and California Constitutions. In keeping with these protections, DHS Environmental Health inspectors request permission prior to entering any residence. In the event that permission is not obtained, inspectors must obtain a warrant prior to entering the residence.

**DHS recommends that the County oppose AB 2545 because it would create a costly and more burdensome process for inspection of residential rental housing to the detriment of tenant health and safety, and we concur.**

According to the author's office, AB 2545 is sponsored by the California Apartment Association. It is opposed by the California Association of Environmental Health Administrators, San Diego County, and the City of Long Beach. AB 2545 was set for hearing on June 17, 2002 in the Senate Housing and Community Development Committee, but was put on hold at the author's request.

#### **SB 1287 (Alarcon)**

As amended May 7, 2002, SB 1287 would increase penalties for acts associated with terrorism and expand the definition of weapons of mass destruction.

SB 1287 defines "used as a destructive weapon" as the use of any device by a perpetrator with the intent to cause a fire, explosion, or a release of a chemical, biological, nuclear, or radioactive agent that may cause widespread great bodily injury or death. Punishment would be life in prison without the possibility of parole. The measure also expands the definition of weapons of mass destruction to include restricted biological agents and an aircraft, vessel, or vehicle used as a destructive weapon.

**The Sheriff recommends that the County support SB 1287 because it defines weapons of mass destruction and will thereby facilitate the acquisition of search warrants and expedite investigations so law enforcement personnel may apprehend those who would use weapons of mass destruction, and we concur.**

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SB 1287 is sponsored by the Los Angeles County District Attorney and is supported by the Riverside Sheriff's Association, Association for Los Angeles Deputy Sheriffs, Los Angeles Police Protective League, Peace Officers Research Association of California, and the California State Sheriffs' Association. It is opposed by the American Civil Liberties Union.

SB 1287 passed the Senate on a 39 to 0 vote and is in the Assembly Public Safety Committee where it is scheduled to be heard on June 25, 2002.

**SB 1618 (Kuehl)**

As introduced on February 21, 2002, SB 1618 would increase the portion of the marriage license fee for domestic violence shelters from \$23 to \$33 and require \$6 of that amount to be allocated to develop and expand shelters to target underserved areas and populations.

According to the author's office, the stability of this funding source for domestic violence shelters is a key aspect of the proposal. Unlike Federal and State funding sources that have been reduced or cut off without warning, funds generated by marriage license fees are relatively stable.

The Registrar-Recorder reports that because the County already collects the domestic violence surcharge and has an established process to distribute the funds, implementation would not impose any new costs or administrative burdens on the Department.

The Department of Community and Senior Services (DCSS) indicates that Los Angeles County currently charges \$67 for a marriage license and is likely to collect over \$1.5 million for domestic violence shelters from the existing marriage license fee in the current fiscal year. SB 1618 would increase the funds from this fee by about \$500,000 annually. Since the last marriage license fee increase in FY 1995-96, inflation, program costs, and the number of shelters needing assistance have increased.



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**DCSS recommends that the County support SB 1618, and the \$10 increase of the portion of the marriage license fee collected for domestic violence shelters, of which \$6 would be used to target underserved areas and populations, because it will provide a stable funding source for domestic violence shelters, and we concur.**

A recent Senate Floor Analysis indicates that SB 1618 is supported by the Alliance Against Family Violence and Sexual Assault, American College of Obstetricians and Gynecologists, El Dorado Women's Center, Haven House Inc., Napa Emergency Women's Services, Su Casa Family Crisis and Support Center, WomenShelter of Long Beach, and the State Commission on the Status of Women, among others. There is no registered opposition. SB 1618 is awaiting a hearing date in the Assembly Judiciary Committee.

### **SB 1809 (Machado)**

As amended on April 15, 2002, SB 1809 would create a new license category for medical laboratory technicians (MLTs) and authorize MLTs to perform and report the results of clinical laboratory tests or examinations classified as waived or of moderate complexity, while under the supervision of a physician and surgeon or other appropriately licensed staff. An MLT would not be authorized to perform microscopic analysis or immunohematology procedures. Laboratory tests are classified under the Clinical Laboratory Improvement Amendments (CLIA) passed by Congress in 1988. For example, CLIA classifications determine waived tests to be so simple that there is little risk of error.

According to a recent policy brief prepared by Hartnell College, California is the only State in the nation that does not license or certify mid-level laboratory practitioners. MLTs are used in other states in place of Clinical Laboratory Scientists (CLS) to perform waived and moderately complex tests, which comprise over 80 percent of all medical tests.

The Department of Health Services (DHS) reports that the Department's positions which are equivalent or similar to the CLS position, the Medical Technologist (MT) and Public Health Microbiologist (PHM), are increasingly difficult to recruit. Licensing of mid-level MLTs would free the higher level staff to perform other more important and complex tasks.

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DHS indicates that, assuming a ratio of five MLTs to one CLS, SB 1809 could result in annual savings of \$10 million, based on the Public Health Laboratories' recommended salary for the MLT position. **DHS recommends that the County support SB 1809, and the creation of a new license category for medical laboratory technicians, because it would help address the shortage of medical laboratory personnel and result in significant cost savings, and we concur.**

According to the author's office, SB 1809 is sponsored by the California Clinical Laboratories Association and is supported by Santa Clara County, California Healthcare Association, Lucille Packard Children's Hospital, Mt. San Antonio College, Westcliff Medical Laboratory, Spectra Laboratories, Kaiser Permanente, Regional Health Occupation Center at Hartnell College, California Health Information Association, California Society of Pathologists, Unilab and Quest Diagnostics Incorporated. There is no registered opposition. SB 1809 passed the Assembly Business and Professions Committee on June 18, 2002 by a vote of 10 to 0 and is awaiting a hearing date in the Assembly Health Committee.

#### **SB 1975 (Johnson)**

As amended on June 19, 2002, SB 1975 would mandate that, beginning in 2004, there would be three Statewide elections during the years a Presidential election is held: a March Presidential Primary, a June Primary for all other elected officials (state legislators, Congress, Board of Supervisors) and a November Presidential election. In Gubernatorial years, there would be two elections: the June Primary and the November General Election.

Existing law requires that the Statewide direct primary election be held on the first Tuesday in March in even-numbered years. In any year evenly divisible by the number four, the Statewide direct primary elections are consolidated with the Presidential Primary held on the first Tuesday in March.

The Registrar-Recorder/County Clerk indicates that though well intended, SB 1975 would

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create significant financial problems in Presidential election years and a number of serious logistical problems resulting from conducting two primary elections. A March Presidential Primary and June Primary would require concurrent preparation for the back to back elections including candidate processing, printing and distributing sample ballot booklets, post election repair and restoration of election materials, such as repairing voting booths and supply tubs, cleaning and repairing voting machines and restocking expendable supplies for a new election. The need to produce printed materials in such short time frames would overwhelm the Department's vendor. Another unintended consequence of this legislation is the possibility of voter burnout. With two primary elections in close proximity, voters may be confused and concerned about the added cost of two primaries, and may express their discontent by not voting.

Finally, an additional election in Presidential election years would be very expensive. The Registrar-Recorder/County Clerk indicates that the extra election would cost Los Angeles County an additional \$15 million to \$20 million a year, an unfunded mandate. According to the May 23, 2002 Senate Floor analysis, the Secretary of State concurs that SB 1975 would create significant costs for county elections officials and will result in added costs for the Secretary of State to print and mail additional State ballot pamphlets.

**The Registrar-Recorder/County Clerk recommends that the County oppose SB 1975 because it would create an unfunded mandate, cause serious logistical problems and financial costs and possibly discourage citizen participation in the election process, and we concur.**

SB 1975 is supported by the California Business Roundtable, League of Women Voters (in concept), California Chamber of Commerce, Log Cabin Republicans of California, California Journal, Los Angeles Times, Sacramento Bee, San Francisco Examiner and Oakland Tribune. Those opposed are the California Association of Clerks and Elections Officials, County of Sacramento and, the California State Association of Counties. SB 1975 passed out of the Senate on May 28, 2002 on a 26 to 4 vote and is currently in the Assembly Committee on Elections and Reapportionment awaiting a hearing date.

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These recommended positions will be added to the State Legislative Agenda and are consistent with the following specific County Strategic Plan Goals: organizational efficiency, fiscal responsibility, and children and families' well-being.

Respectfully submitted,

DAVID E. JANSSEN  
Chief Administrative Officer

DEJ:GK  
ML:MS:JL:md

c: County Counsel  
Department of Community and Senior Services  
Department of Health Services  
Department of Public Social Services  
District Attorney  
Probation  
Public Defender  
Registrar-Recorder/County Clerk  
Sheriff